IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7896 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

==========

SAVJIBHAI V PARMAR

Versus

MADHAVPURA MARKET SHOPS & WAREHOUSING CO-OP SOCIETY LTD

Appearance:

1. Special Civil Application No. 7896 of 1992

MR GM JOSHI for Petitioner

MR KV GADHIA for Respondent

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 16/08/2002

ORAL JUDGEMENT

1. The petitioner challenges the award dated 25-6-1991 of the Labour Court, Ahmedabad to the extent

that it has denied the relief of reinstatement to the petitioner. The petitioner was serving in the respondent society when his services came to be terminated with effect from 31-11-1983. According to the respondent, the petitioner was terminated by making a retrenchment order on 23-11-1983, and that the legal dues of the petitioner were paid. The Labour Court partly allowed the reference by holding that the petitioner was not entitled to reinstatement, but should be paid Rs.10,000=00 as lumpsum compensation.

2. The petitioner had put in about 10 years of service with the institution. In his deposition exh.8, he admitted that since the respondent did not have sufficient work, he was disengaged from 23-11-1983. According to him, however, he was not issued any order of termination , nor paid any amount. In his cross-examination, he admitted that he had received the order through post and money order of Rs.1600=00 was also accepted by him. The Labour Court, on the basis of material on record, found that the respondent had offered the petitioner an alternative job, because, it did not have the work of an electrician, but he refused to accept the alternative job. It was, therefore, held that he was not entitled to any reinstatement. It was also found that the petitioner had not been able to prove that any new workmen were engaged by the respondent after his retrenchment. The respondent examined Kirtikumar Madhavlal Shah at exh.16 and Prahladbhai Bhikhabhai Makwana at exh.18 to prove that since it did not have the work of foreign electrician, the petitioner's services were terminated. As noted above, money order for Rs.1,600=00 was accepted by the petitioner. The Tribunal, however, found that since the exact emoluments of the petitioner were not placed on record on the basis of 10 years of service, the amount by way of compensation should have been on the basis of 15 days per year Rs.1,000=00 and that is how a lumpsum of Rs.10,000=00 was fixed by way of compensation and awarded to the petitioner.

3. The Labour Court has not committed any error in exercise of its jurisdiction while coming to a finding on the basis of the material on record that, as the petitioner has refused to accept the alternative job and that there was no work for an electrician, and that why his services were terminated. The Labour Court has acted in a lawful exercise of its jurisdiction and there is no error apparent on the face of the record of the impugned. The petition is, therefore, rejected. Rule is discharged with no order as to costs.

[R.K.ABICHANDANI, J.]

parmar*